

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6358**

**BILL NUMBER:** SB 163

**NOTE PREPARED:** Dec 6, 2012

**BILL AMENDED:**

**SUBJECT:** Limits on Tenure and Compensation.

**FIRST AUTHOR:** Sen. Delph

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Lobbyists:* The bill provides that an individual may not be registered as a lobbyist for more than ten years. The bill provides that the number of years an individual has been registered as a lobbyist before July 1, 2013, may not be considered for purposes of applying the limitation.

*Members of the General Assembly:* The bill provides that an individual may not be a candidate for election to the General Assembly if, at the expiration of the term to which the individual would be elected, the individual would have served more than 16 years as a member of the General Assembly. The bill provides that years served in the General Assembly before November 5, 2014, are not considered for determining application of this limitation.

*Government Employees and Nongovernment Employees Paid with Government Funds:* The bill provides that an individual may not be employed by or provide personal services under contract to any Indiana government body (state or local) for more than ten years during the individual's lifetime. The bill provides that an individual may not receive more than \$1,000,000 in compensation derived from government funds during the individual's lifetime. The bill provides that time employed and/or time under contract and the amount of compensation received before July 1, 2013, are not considered for purposes of applying these limitations.

The bill would apply to all Indiana state employees and local government employees other than those individuals who hold an office established by the state Constitution. Exempted offices established by the state Constitution include the Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Adjutant General, Superintendent of Public Instruction, county clerks of the circuit court, county auditors, county recorders, county treasurers, county sheriffs, county coroners, county surveyors, Supreme

Court justices, appellate court judges, circuit court judges, and prosecuting attorneys. The bill would not exempt employees of exempt office holders.

In addition, the bill would apply to individuals who receive all or part of their compensation from government funds. This may include independent government contractors, employees of organizations doing business with government as well as employees of quasi-state agencies and nonprofit organizations that receive grants and awards from government funds. The bill would also include employees of public colleges and universities.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** *State Government Employees:* The bill would take effect on July 1, 2013. Any time worked and compensation earned before that date would not count against the tenure and compensation limit. Therefore, a large portion of the fiscal impact of the bill would occur ten years after the bill's effective date, when the first group of individuals reach the ten-year limit on July 1, 2023.

Salary and benefits costs for state employees may decrease under this bill if those employees who reach the ten-year tenure limit or \$1 M compensation limit are replaced by individuals with less experience who are hired at a lower starting salary than those employees who left.

This proposal will increase employee turnover and will likely increase hiring and training costs for the state.

*Nongovernment Employees Paid with Government Funds and Employees of Public Colleges and Universities:* Employees or contractors who receive all or a part of their compensation from government funds would be required to leave after ten years or after receiving \$1 M in compensation. Employers may begin to shift which sources of revenue are used to pay salaries and benefits for employees in order to work within the tenure and salary restrictions imposed by the bill, particularly if they receive the majority of their funds from sources other than government funds.

*Unemployment Benefits:* Employees who are required to leave their positions after reaching the tenure or compensation cap may be eligible to receive unemployment benefits. This would impact the state as an employer. The state is self-insured, so if affected employees are eligible for benefits, costs for unemployment insurance benefits would increase.

*Pension Costs:* The bill would decrease pension costs for state employees. The vast majority of state employees are members of the Public Employees' Retirement Fund (PERF). Employees must work for the state for ten years in order to vest and become eligible to receive a pension benefit. PERF benefits are computed based on the highest average salary and years of service. Employees who work for the state for ten years are eligible for a much smaller pension benefit than if they were allowed to work for 20 or 30 years. PERF benefits are actuarially prefunded through employer contributions when the benefits are earned, rather than when benefit payments are due. Projections of highest employee salary and years of service are used to help determine employer contribution rates. By capping years of service and compensation levels, future employer contribution rates would decrease, beginning in FY 2015. The state employer contribution rate for PERF for state employees in FY 2013 is 9.7% of payroll and will be 11.2% for FY 2014.

The State Excise Police, Gaming Agency, Gaming Control Officer, and Conservation Enforcement Officers' Retirement Fund (C&E Fund) provides pension benefits for employees of the Indiana Department of Natural Resources, the Indiana Gaming Commission, and the Indiana Alcohol and Tobacco Commission. The C&E

Fund requires ten years to vest and is prefunded through employer contributions. Due to the tenure and compensation caps, employer contribution rates would decrease beginning in FY 2015. In CY 2013 the state contribution rate for the C&E Fund is 20.75% of payroll.

The State Police have two pension funds, the Pre-1987 Plan and the 1987 Plan. The Pre-1987 Plan requires ten years to vest, and the 1987 Plan requires five years to vest. These plans are funded through appropriations that are made equally from the state General Fund and from the state Motor Vehicle Highway Account.

The Prosecuting Attorneys' Retirement Fund (PARF) covers elected prosecuting attorneys (who are exempt from the bill) as well as chief deputy prosecuting attorneys and the executive director and assistant executive director of the Indiana Prosecuting Attorney's Council (IPAC). PARF benefits are funded primarily by state General Fund contributions.

The Judges' Retirement System not only covers elected judges (who are exempt from the bill), but also covers full-time magistrates who became magistrates after July 1, 2010, or those full-time magistrates already working as magistrates who opted to take part in the plan at that time. The Judges' Retirement System requires a minimum of age and service requirements, the least of which requires eight years of service and a minimum age at retirement (62) in order to vest. This plan is funded primarily by state General Fund contributions.

***Background Information: Definition of Government Funds:*** Under the bill, the definition of government funds includes all monies derived from state or local taxes. For the purposes of this bill, government funds does not include federal funds.

***Definition of Compensation:*** Under the bill, the definition of compensation includes all net pay. This is exclusive of all withholding taxes, health benefits, pension contributions, and other fringe benefits.

### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** *Local Government Employees:* The tenure and compensation caps would apply to employees of local government, including public school teachers, police officers, firefighters, and deputy prosecutors.

Salary and benefits costs for local government employees may decrease under this bill if those employees who reach the ten-year tenure limit or \$1 M compensation limit are replaced by individuals with less experience who are hired at a lower starting salary than those employees who left. This proposal will increase employee turnover and increasing hiring and training costs for local units of government.

***Pension Costs:*** The bill would decrease pension costs for local government employees. Most local employees are either members of PERF or the Teacher's Retirement Fund (TRF), which requires ten years to vest, and are prefunded through employer contributions. Due to the tenure and compensation caps, employer contribution rates would decrease beginning in FY 2015. In CY 2013 local employers with employees in PERF pay an aggregate contribution rate of 9.73% of payroll. Local school corporations pay 7.5% of payroll in FY 2013 to prefund TRF benefits. For TRF retirees who retired prior to 1996, their retirement benefits are funded primarily through state General Fund appropriations.

Police officers and firefighters employed by local units would be unable to qualify for a pension under this bill.

Members of the 1977 Police Officers' and Firefighters' Pension and Disability Fund (1977 Fund) are required to work for 20 years before they vest in the pension system. Employer contributions for the 1977 Fund, which are 19.7% of payroll in CY 2013, would decrease beginning in CY 2015.

The bill would also affect those counties who have opted to establish a separate sheriff's pension trust. Specifically, the bill would affect deputy sheriffs who are covered by these plans. Of the 92 county sheriff's departments in Indiana, 91 have established a sheriff's pension trust plan, and one department covers its employees under PERF.

**Explanation of Local Revenues:**

**State Agencies Affected:** All.

**Local Agencies Affected:** All.

**Information Sources:** *Indiana Pension Handbook 2012*; Greg Witter, INPRS, [gwitter@inprs.in.gov](mailto:gwitter@inprs.in.gov).

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